
Judiciary Committee

HB 2813

Title: An act relating to shopping carts.

Brief Description: Changing provisions relating to shopping carts.

Sponsors: Representatives O'Brien, Williams, Strow and Kirby.

Brief Summary of Bill

- Changes the elements of the crime of removing a shopping cart;
- Provides a merchant with a defense against civil liability for detaining a person suspected of shopping cart removal;
- Allows a merchant to recover damages, plus penalties, fees and costs, from a person who removes a shopping cart; and
- Restricts a local government's ability to impound shopping carts.

Hearing Date: 1/27/06

Staff: Bill Perry (786-7123).

Background:

Removing or possessing a shopping cart is a misdemeanor crime. The crime of removing a shopping cart consists of removing a cart from the parking area of a store with the intent to deprive the owner of the use of the cart. The crime of possessing a shopping cart consists of possessing a cart that has been so removed.

These crimes apply only to shopping carts that have a sign on them that indicates the ownership of the cart, that provides notice regarding the crime of unauthorized removal, and that lists a phone number or address for returning the cart to the owner.

In some circumstances, merchants have been given statutory defenses and remedies for dealing with shoplifting and other thefts. Under one of these provisions, a shoplifter is liable to a merchant for:

- actual damages;
- a penalty in the amount of the value of the taken merchandise, not to exceed \$1,000;
- a penalty of at least \$100, but not more than \$200; and

- all reasonable attorney fees and court costs.

These civil penalty provisions also apply to persons who leave a restaurant without paying for food, or who leave a motel or hotel without paying for food or lodging. A conviction for theft is not necessary in order to enforce these civil remedies.

In addition, a merchant who detains a suspected shoplifter has a defense against a suit by the detained person if the detention was done in a reasonable manner for a reasonable time, and was based on reasonable grounds to believe the person was shoplifting.

Summary of Bill:

The crime of removing a shopping cart is changed. The crime no longer requires a showing of intent to deprive the owner of the use of the cart. Instead it requires a showing that the removal was intentional and without the owner's permission. The crime of possession of a shopping cart continues to require a showing of intent to deprive the owner of the use of the cart.

A merchant who detains someone suspected of shopping cart removal is given the same defense against civil liability that a merchant has for detaining a suspected shoplifter. A person who intentionally removes a shopping cart without permission is subject to the same civil penalties as a person who shoplifts.

Local ordinances dealing with shopping cart removal may allow impoundment of a cart only if the cart is off the premises of the merchant; and

- the owner is given notice of the cart's location and does not retrieve the cart within five days; or
- the cart is likely to impede emergency services (in which case, if the cart is impounded, the merchant must be notified of the impoundment); or
- the cart does not have the sign on it that is required for a conviction of the crime of shopping cart removal.

Local ordinances may not provide for an impound fee of more than \$50 per cart. No fee may be charged if the merchant retrieves the cart within five days of notice of impoundment. Impounded carts may not be disposed of within 30 days of impoundment. Disposal fees chargeable to the merchant may not exceed \$50 per cart. Notifications under this provision may be made by using a statewide telephone number if one is ever established for that purpose.

Appropriation: None.

Fiscal Note: Requested on January 23, 2006.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.